IFW

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United States Patent and Trademark Office
Customer Service Window
PETITION TO THE DIRECTOR
(Continuation)
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Application 08/809,620, filed 02/05/1998
WITHDRAWN OF ABANDONMENT (continuation)

Mr. Director,

1) Petition to the Director filed on October 28, 2009.

1a) Fees for Petition paid, and account debited on 23 November 2009.

1b) Not answer after 10 months.

2) Notice of Abandonment, allegedly mailed on 14 September 2009, but not received today 03 September 2010.

3) Interview on 24 April 2009 but alleged on 01 May 2009.

3a) Not documentary evidence for 5 months extension of time, and so for fees 1115$, neither before, neither during, neither after the interview.

3b) One month extension of time, under MPEP 710.06 I, had been asked on September 17, 2008, with Form PTO/SB/23, because 130 days elapsed between allegedly mailed date of the Office Action on 30 April 2008, and the arrival of the mail at the applicant's address, on 09 September 2008.

A mention of 5 months extension of time is mentioned in this form, but shown as unenforceable.

3c) Fee of 200 $ under 37 CFR 1.17(g) was paid with PTO-2038 faxed on September 17, 2008 (and account debited on September 22, 2008), and fee 60 $ paid under 37 CFR 1.136(b) for one month time extension (but only 30 $ was debited on September 24, 2008)

By these debits, the PTO had agreed with the one month extension of time.

3d) Not complied form used in Interview Summary.
The form PTOL-413 does not show that the interview was initiated by Examiner.
The complied form is PTOL-413B.

3e) *"Mr. Ward explained to Vernois that Mr. Ward was not the Examiner, but was translating in French for Ms. Anthony what was required..."*

It is possible to wonder about Ms. Anthony.

In this sentence, Ms. Anthony is presented as the Examiner for whom Mr. Ward speaks, when on the form PTOL-413, l'Examiner is PAUL V WARD who signs the form (S-signature).

And a Supervisory Patent Examiner is a /J.O.W/, always of the Art Unit 1624, as Mr. Ward.

But the Examiner of this application is Mr. Nguyen, Art Unit 2872...

It is possible also to wonder about this interview and the disappearance of Mr. Nguyen..., who though gives support to this interview by Form PTOL-90A, but without signature, even S-signature.

3f) Ignorance by Examiner Mr. Nguyen of the Interview.
In his Notice of Abandonment, Mr. Nguten is unaware of the existence of the Interview.
Indeed, I have replied through Mr. Ward to the Office Action on Avril 30, 2008, but via a particular fax 571 273 0200 of the Technical Center 1600 given by Mr. Ward, and this ignorance shows without ambiguity that M. Ward did not pass on to Mr. Nguyen this reply.
Of course, my reply was done according to that I had understood of the words of Mr. Ward, in the lack of written Office Action.

If 37 CFR 1.133(b) stipulates that "An interview does not remove the necessity for reply to Office actions as specified in §§ 1.111 and 1.135.", it is obvious that the written reply to an interview, addressed to the Examiner, is a reply as stipulated by this 37 CFR 1.133(b).

In this case, if Mr. Ward does not have well understood Mr. Nguyen, or does not have well spoken to the applicant, it is under the responsability of Mr. Ward or Mr. Nguyen, and not of the applicant who has perfectly well keeped the rule.

In an other hand, as I have soon said, it seems to me that it is up to the Examiner to choose the status of the claims of an application filed before June 30, 2003, when is instituted new rules, in particular 37 CFR 1.121(c).

It seems to me also that the rule 1.121(g) is suited to the circonstances.

It is obvious that an inventor does not be competent to give the good status on the date of June 30, 2003, in a procedure which is started 5 years ago, without these status.

If this work does not done by the examiner himself, this work demands to use a too costly attorney for the majority of the inventors, that is an insurmontable obstacle to the exercise of the Patent Rights, opposite to the Constitution.

But the very big problem is perhaps that the examiner is not himself competent, or does not want to be accused by attorneys to rob their business.

3g) Interview not complied with 37 CFR 1.133(a)(1).
The Phone Number calling on April 24, 2009, at 6 past 30 in the morning, Alexandria time, was the 571 431 0991, located 2021 CLARK PL, Alexandria, in an USPTO premise.

37 CFR 1.133(a)(1) "Interviews" stipulates that interviews must be conducted only in USPTO premises and within Office hours, except the authority of the Director.

If the 2021 CLARK Pl. is well an USPTO premise, 6 past 30 in the morning does not seem to be within Office hours, and in this case the hours required the authority of the Director.

In this case, Mr. Ward had asked to the Director for the hours, but also for the day of the interview.

The work office of Mr. Ward is located in the Office Campus, but the phone call had been done in an other office, located at about 5 km.

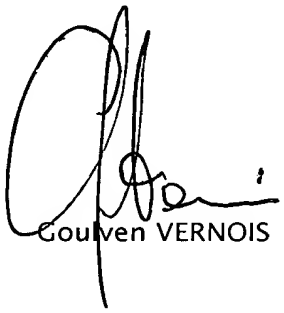
In this case always, it is certain that the date had been written in an official paper.

So, the wrong date given in the Summary Interview would not be explainable if the interview complied with 37 CFR 1.133(a)(1).

3h) In this situation, what is about the request by Mr. Ward for the payment of 1115$ via a particular fax at his disposal, payment that Mr. Ward knows that it will not appear on Public PAIR, and that it will be unaware by PTO ?

4) Use of the 37 CFR 1.121(g) rule.
It seems to me that the better is that PTO uses 37 CFR 1.121(g) rule, rule which was established by the United States Congres to solve procedural tiny cases as this one, in a application whose the claims are not questioned on the technical merit.

Sincerely



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